



Community Development
39550 Liberty Street
Fremont, CA 94538

ZONING ADMINISTRATOR



General Order of Business

1. Preliminary (Call to Order – 2:00 p.m.)
2. Public Hearing Items
3. Adjournment

Addressing the Zoning Administrator

Any member of the public may speak on any item under review by the Zoning Administrator after “being recognized” by the Zoning Administrator. After the Zoning Administrator recognizes you, state your name and address. Generally, after the item is introduced, the order of presentation begins with staff introduction and presentation. The project applicant or their authorized representative may then comment. Next, interested members of the public may speak. Additional comments by the applicant or staff, as appropriate, may follow. At the close of testimony, the matter will return to the Zoning Administrator for discussion and action.

General Information

The Zoning Administrator usually holds hearings on the first and third Mondays of each month. Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act. Interested persons must request the accommodation at least 2 working days in advance of the meeting by contacting the Planning Division (510) 494-4440.

Plans and other supporting documents are available at the Development Services Center at 39550 Liberty Street (between Stevenson Boulevard and Walnut Avenue). Plans and other supporting documents may be viewed any day until noon the day of the meeting. Copies will be provided at cost when feasible. The Development Services Center is open 8:00 a.m. to 4:00 p.m., Mondays through Thursdays; and 8:00 a.m. to 12:00 p.m., Fridays.

We appreciate your interest in the conduct of your City’s business. Information about the City or the items discussed in this report may be referred to:

Zoning Administrator
City of Fremont
Planning Division
39550 Liberty Street, P.O. Box 5006
Fremont, CA 94537-5006
Telephone: 510-494-4440

City Staff
Barbara Meerjans, Zoning Administrator

**This Page Left
Blank Intentionally**



AGENDA
ZONING ADMINISTRATOR PUBLIC HEARING MEETING 2:00 P.M.
CITY OF FREMONT, CALIFORNIA
39550 LIBERTY STREET
RANCH HIGUERA CONFERENCE ROOM

MARCH 2, 2009

1. PRELIMINARY

1.1 CALL TO ORDER

2. CONSENT CALENDAR – None

NOTICE: ITEMS ON THE PUBLIC HEARING CALENDAR MAY BE MOVED TO THE CONSENT CALENDAR IF NO ONE IS PRESENT TO SPEAK ON THE ITEMS. ALL APPLICANTS AND INTERESTED PERSONS ARE ADVISED TO BE PRESENT AT THE START OF THE MEETING.

3. PUBLIC HEARING ITEMS

Item 1. WESTERN DIGITAL EXPANSION – 44250 OSGOOD ROAD – (PLN2009-00150) – to consider a Zoning Administrator Permit for a High Intensity Hazardous Materials User located at 47200 Osgood Road in the Industrial Planning Area. This project is categorically exempt pursuant to California Environmental Quality Act Guidelines, 15301 (Minor Alterations of an Existing Facility) and 15311 (New Accessory Structures).

Project Planner – Steve Kowalski, (510) 494-4532, skowalski@fremont.gov

Recommended Action: Approve, based on findings and subject to conditions.

Item 2. FIRST STEPS DAYCARE – 1963 ORO DRIVE – (MIS2009-00369) – to consider a Zoning Administrator Permit for a large family daycare to allow up to fourteen children located at 1963 Oro Drive in the Mission San Jose Planning Area. This project is exempt from the California Environmental Quality Act under guideline 15274, Family Daycare Homes.

Project Planner – Tanu Jagtap, (510) 494-4537, tjagtap@fremont.gov

Recommended Action: Approve, based on findings and subject to conditions.

4. ADJOURNMENT

**This Page Left
Blank Intentionally**



ZONING ADMINISTRATOR PERMIT

STAFF REPORT MARCH 2, 2009

Project:	WESTERN DIGITAL EXPANSION – (PLN2009-00150)
Proposal:	Zoning Administrator Permit to allow a High Intensity Hazardous Materials Use to occupy the building located at 44200 Osgood Road in the Industrial Planning Area.
Recommendation:	Approve, based on findings and subject to conditions
Location:	44200 Osgood Road, Fremont, CA 94539 APN: 519-1351-019-01 (See aerial photo next page)
Area:	98,180 sq. ft. industrial building located on a 5.39-acre lot
People:	Western Digital (representative: Paul Oliphant), Applicant Western Digital, Property Owner Steve Kowalski, Staff Planner (510) 494-4532; skowalski@fremont.gov
Environmental Review:	Categorical exemption pursuant to CEQA Guidelines 15301 (Minor Alteration of Existing Structure) and 15311 (New Accessory Structures).
General Plan:	Restricted Industrial (w/ Commercial-Industrial Overlay)
Zoning:	I-R Restricted Industrial District

EXECUTIVE SUMMARY:

The applicant (Western Digital Corporation) is proposing to increase manufacturing operations in an existing building it currently owns at 44200 Osgood Road. The project will involve the conversion of floor area that is currently used as office space, storage space, and other non-habitable miscellaneous space into new manufacturing floor area for the purpose of manufacturing computer hard drives. No additional floor area will be created, with the only change to the footprint of the building consisting of the addition of a large open-air service yard on the back side of the facility. The hard drive manufacturing process requires the use of large quantities of numerous hazardous materials; in this case the manufacturing facility qualifies as a Medium User Site engaged in the storage and handling of Group A, Group B, and Group C Chemicals. Pursuant to Sections 8-21503(d) and 8-22143.3 of the Municipal Code, a Zoning Administrator Permit is required to allow a Medium User Site engaging in the storage and handling of Group A, Group B, and Group C Chemicals in the Restricted Industrial (I-R) zone. Staff recommends that the Zoning Administrator approve the requested permit subject to the conditions listed in Exhibit "B".



Figure 1: Aerial Photo (2006) of Project Site and Surrounding Area.



SURROUNDING LAND USES:

North: Industrial uses (I-R)

South: Industrial uses (I-R)

East: Interstate 680, Single-family homes beyond [R-1-6 (H-I)]

West: Regional commercial and light industrial uses (G-I)

BACKGROUND AND PREVIOUS ACTIONS:

There is no history of planning entitlements associated with the subject property. The building was built with the proper permits in 1992, and has undergone numerous tenant improvements since that time to accommodate the needs of past tenants who have occupied the site.

PROJECT DESCRIPTION:

The applicant, Western Digital Corporation, engages in the design and manufacturing of computer hard drives in two adjacent industrial buildings located at 44100 and 44200 Osgood Road. The building that is the subject of this application (44200 Osgood Road, hereafter referred to as “Building 2”) measures 98,180 square feet. Of this floor area, approximately 10,000 square feet is currently used for manufacturing purposes, while the remainder is used for storage, office space and other non-habitable miscellaneous manufacturing-related purposes. The applicant is proposing to expand the area dedicated to manufacturing to approximately 60,000 square feet by converting 50,000 square feet of floor area currently used for office space and storage and miscellaneous manufacturing-related uses into new manufacturing space.

This reconfiguration will allow considerably more hard drive manufacturing to occur at the facility, thereby necessitating greater amounts of various hazardous materials needed for the hard drive manufacturing process on the site. The quantities of hazardous materials that will be used in the facility categorize it as a medium user of high intensity hazardous materials pursuant to Section 22143.3(d)(5) of the Municipal Code, and such uses must obtain a Zoning Administrator Permit in order to operate in the I-R zoning district.

PROJECT ANALYSIS:

General Plan Conformance

The existing General Plan land use designation for the project site is Restricted Industrial with a Commercial-Industrial overlay. Land designated Restricted Industrial is intended to house light industrial uses, including research and development, light manufacturing, and wholesale and warehouse facilities, while property within the Commercial-Industrial overlay may be developed with regional-serving commercial uses. The proposed use is consistent with the Restricted Industrial land use designation in that it involves manufacturing of computer-related products. The following General Plan Land Use Goal is applicable to the proposed project:

- **Land Use Goal 3:** Sufficient industrial land to provide a diversified industrial base to meet the employment needs of the City’s present and future workforce.

Analysis: Allowing the expansion of hard drive manufacturing facilities at the subject site will enable the applicant to increase capacity on site and expand the workforce needed to run the facilities. This will help increase the industrial job base within the City.

Zoning Compliance

Storage and Handling of Hazardous Materials:

Section 8-22143.3 of the Municipal Code requires approval of a Zoning Administrator Permit for medium user sites that engage in the storage and handling of hazardous materials. The proposed facility will contain large quantities of various hazardous gases and liquids used in the hard drive manufacturing process, therefore the project is required to obtain a Zoning Administrator Permit to ensure that the materials are stored and handled in a safe manner consistent with industry standards and Fire Department regulations. When reviewing a Zoning Administrator Permit application, the Zoning Administrator must consider the following items:

- (a) The suitability and adequacy of the site for the proposed use;
- (b) The estimated effect of the proposed use or design on traffic circulation and on the planned capacity of the street system and on other public facilities or services;
- (c) The estimated economic effect of the proposed use on nearby uses;
- (d) The estimated impact of the proposed use on the general welfare of persons residing within the community; and
- (e) The compatibility of design with adjacent uses within the district and its surroundings.

Discussion:

- (a) The site is designated for industrial uses in the General Plan and Zoning Ordinance, and hard drive manufacturing involving the same process and inventory of hazardous materials is already taking place within the facility. The only difference will be the amount of hazardous materials that will be stored and handled on the site. In addition, the applicant will be required to comply with the applicable Fire Department regulations and industry safety standards involving the storage and handling of the additional quantities of hazardous materials that will be used on the site.
- (b) No additional square feet will be created to accommodate the increased manufacturing capacity within the facility; instead, existing floor area will be reconfigured to allow more space for manufacturing activities to occur. Most of the new space that will be used for manufacturing is currently being used for storage and miscellaneous purposes related to the manufacturing operations currently occurring in the facility, with a smaller portion currently being used as office space. Office space generates more vehicle trips than manufacturing and storage floor area; therefore, the conversion of existing office space into additional manufacturing area will result in a slight reduction of vehicle trips to and from the site. As such, the proposal will not have a significant impact on traffic levels or circulation on the surrounding road network.
- (c) The project will not have a significant economic effect on nearby businesses in that the site is already being used for the manufacturing of hard drives. As such, the applicant will not be introducing a new industry on the site that could be in direct competition to or adversely impact other businesses in the area.

- (d) While an accidental release of some of the hazardous materials that will be used in the facility could have an adverse impact on the welfare of persons residing or working nearby, the applicant will be required to implement a number of safety measures designed to reduce the likelihood of such an event. The daily operations of the facility will be required to comply with the 2007 California Fire Code (CFC) regulations governing the storage and handling of hazardous materials. Under those requirements, the applicant is required to submit a Hazardous Materials Business Plan which will be reviewed by the City's Fire Department during the building permit process to ensure that it conforms to the standards of the 2007 CFC. The project will also require approval through the building permit process to ensure that the design, layout and construction of tenant improvements and hazardous material safety and containment measures will comply with the applicable building and life safety codes. In addition, all hazardous materials used on the site will be required to be delivered and disposed of by a licensed chemical transporter. For these reasons, staff believes that the impact of the proposal on the welfare of the citizens living and working nearby will not be significant.
- (e) The only proposed change to the exterior of the building will be the addition of a new, larger service yard enclosure along the back side of the facility. The enclosure will be compatible with other development in the area in that it will be designed with louvered metal siding to match the existing enclosures on the applicant's two properties which will effectively screen the equipment within the yard.

Parking:

The existing building and its associated parking facilities were constructed in accordance with the standards in place in 1992, and the property has not been enlarged since. The applicant will be building a new service yard behind the building which will require the reconfiguration of a portion of the existing parking lot at the rear of the site, but the reconfiguration will not result in a net loss of any parking spaces.

The proposed expansion of the manufacturing area within the building will involve the conversion of approximately 7,400 square feet that is currently used for office purposes into new manufacturing and storage area, but no additional floor area will be constructed. In accordance with Section 8-22003(c)(1) of the Municipal Code, manufacturing plant uses require one space for each 800 gross square feet of storage and manufacturing floor area, and one space for each 200 gross square feet of office and administrative floor area. Since manufacturing area requires less parking than office space, the parking requirements for the proposed expansion of the manufacturing facility will actually decrease slightly. The following tables depict both the current and proposed parking conditions at the site:

Building 2 Current Parking Conditions			
Floor Area	Gross Sq. Ft.	Spaces Required	Spaces Provided
Office	38,758	193	
Manufacturing	9,691	13	
Storage	30,430	38	
Non-habitable Misc.	19,301	-	
Totals:	98,180	244	250 (6-space surplus)

Building 2 Proposed Parking Conditions			
Floor Area	Gross Sq. Ft.	Spaces Required	Spaces Provided
Office	31,325	157	
Manufacturing	59,660	75	
Storage	3,740	5	
Non-habitable Misc.	3,455	-	
Totals:	98,180	237	250 (13-space surplus)

As depicted in the tables above, the site currently features a 6-space surplus. With the proposed increase in manufacturing floor area and the corresponding reduction in office space inside the building, the site will have seven additional surplus spaces for a total surplus of 13 spaces. As such, the proposal will comply with the parking requirements of the Zoning Ordinance.

Environmental Review:

The proposed project qualifies as a Class 1 and Class 11 Categorical Exemption pursuant to California Environmental Quality Act (CEQA) Guidelines 15301 (Minor Alteration of an Existing Facility) for the conversion of floor area into additional manufacturing space and 15311 (New Accessory Structures) for the construction of the new service yard enclosure. As such, no environmental review for the project is necessary.

PUBLIC NOTICE AND COMMENT:

A Zoning Administrator Permit requires public hearing notification pursuant to the Fremont Municipal Code. A total of 29 notices were mailed to the owners and occupants of all property within 300 feet of the project site on Wednesday, February 18, 2009. A Public Hearing Notice was also published in the Tri-City Voice on the same date.

ENCLOSURES:

Exhibits:

Exhibit A - Development Plans
Exhibit B - Findings and Conditions

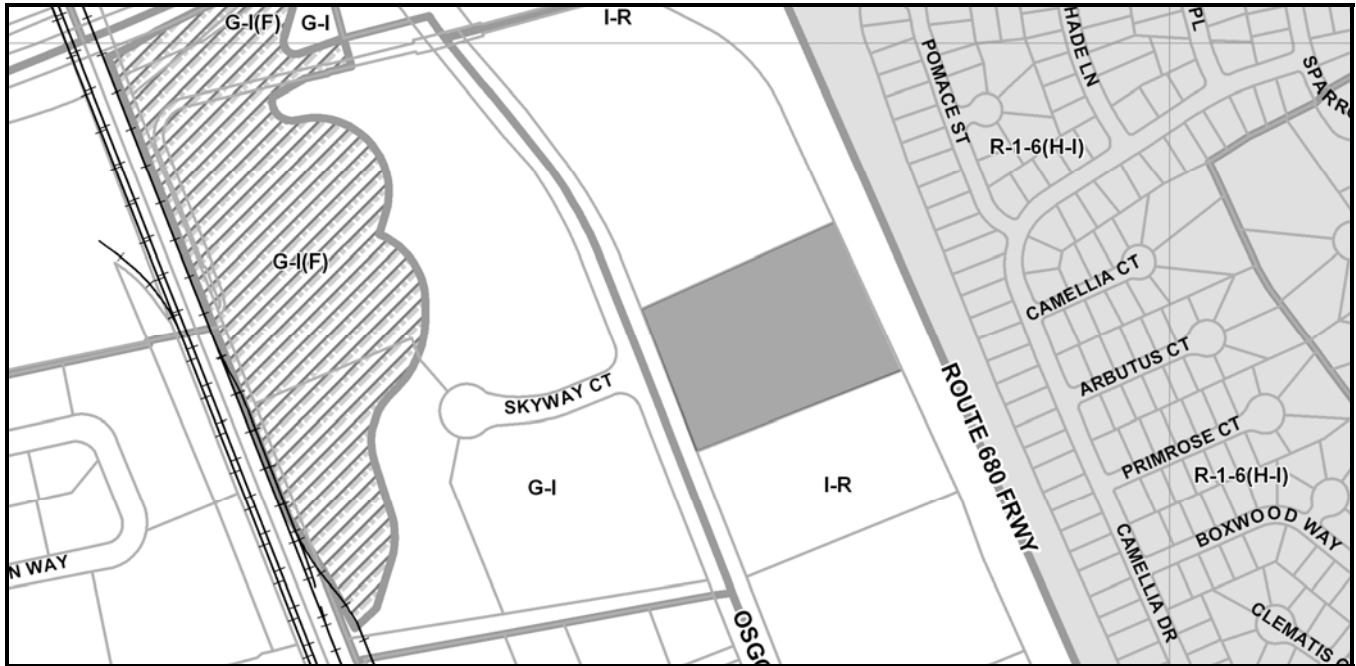
Informational:

Item 1 - Project Description prepared by Applicant

RECOMMENDATION:

1. Hold public hearing;
2. Find that the project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Guidelines 15301 (Minor Alteration of an Existing Facility) and 15311 (New Accessory Structures);
3. Find the Zoning Administrator Permit is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals, objectives, and policies set forth in the Industrial Land Use section of the City's General Plan as enumerated within the staff report; and
4. Approve the Zoning Administrator Permit, as shown on Exhibit "A", subject to the findings and conditions contained in Exhibit "B".

Existing Zoning
Shaded Area represents the Project Site



Existing General Plan



EXHIBIT “B”
Findings and Conditions of Approval
PLN2009-00150 – Western Digital Manufacturing Facility Expansion ZA Permit
44200 Osgood Road

FINDINGS:

The findings below are made on the basis of information presented at the public hearing and contained in the staff report to the Zoning Administrator dated March 2, 2009, incorporated hereby:

Zoning Administrator Permit Findings:

- a. The site is suitable and adequate for the proposed use in that hard drive manufacturing involving the same process and inventory of hazardous materials is already taking place within the facility; the proposal would merely involve the expansion of floor area used for this manufacturing process;
- b. The proposed use and design would not have a substantial adverse effect on vehicular (including bicycle) or pedestrian circulation or safety, on transit accessibility, on the planned level of service of the street system or on other public facilities or services in that most of the new space that will be converted to manufacturing uses is currently being used for storage and miscellaneous purposes related to the manufacturing operations currently occurring in the facility, with a smaller portion currently being used as office space. Since office space generates more vehicle trips than manufacturing area, the conversion of existing office space into additional manufacturing area will result in a slight reduction of vehicle trips to and from the site. As such, the proposal will not have a significant impact on traffic levels or circulation on the surrounding road network or other public facilities or services;
- c. The proposed use would not have a substantial adverse economic effect on nearby uses in that the site is already being used for the manufacturing of hard drives; therefore, the applicant will not be introducing a new industry on the site that could be in direct competition to or adversely impact other businesses in the area;
- d. The proposed use would not be detrimental to the general welfare of persons residing in the immediate vicinity, the neighborhood or the community at large in that the applicant will be required to implement a number of safety and containment measures designed to reduce the likelihood of such an event in accordance with the requirements of the 2007 California Fire and Building Codes governing the storage and handling of hazardous materials; and
- e. The proposed design is compatible with adjacent uses within the district and the surroundings of the proposal in that the new service yard enclosure along the back side of the facility will be designed to match the existing enclosures on the applicant’s two properties and be of similar size and shape as the existing building and other buildings on the adjacent properties.

CONDITIONS OF APPROVAL:

1. The project shall substantially conform to Exhibit "A" (Development Plans), except as modified by conditions herein.
2. Final plans for the project shall be submitted to the Development Organization for review to ensure conformance with relevant codes, policies, and other requirements of the Fremont Municipal Code.
3. The applicant shall meet all requirements of the currently adopted edition of the California Building, Fire, and City of Fremont Municipal Codes and local ordinances in effect at the time of building permit / business license application.
4. The fire sprinkler system shall meet the requirements of an N.F.P.A. 13 system, complying with local amendments.
5. A separate permit is required for the underground fire service, fire sprinkler, standpipe system, fire alarm systems, assembly areas, type 1 hoods, high pile storage and clean agents.
6. The applicant shall provide for approval a site plan/civil utility plan with the location of all public and on-site fire hydrants. Fire hydrant(s) shall be spaced at 300 feet intervals. The distance is measured as the fire engine travels on all weather surfaces. Public fire hydrant head assemblies shall be a Clow Model 860 or equivalent.
7. The applicant shall install a monitored fire alarm/voice evacuation system as required. The system must comply with N.F.P.A. 72 and local Ordinance #32-2007. A nationally recognized testing laboratory numbered certificate shall be provided at no cost to the City. The fire alarm system, alarm, supervisory and trouble signals shall be distinctly and descriptively different per City of Fremont Fire Alarm Standard 25A.
8. Fire Department Connections for all sprinkler system must be located not more than 100 feet from a fire hydrant. N.F.P.A 14. All inlets shall have Knox brand type caps with a metal signs/address placards installed at the connection.
9. Prior to installation, plans and specifications for the underground fire service line must be submitted to the Plans and Permit Center for approval by the Fire Department and Building Department. The underground fire service requires either cathodic protection or a corrosion engineer's protection plan.
10. The applicant shall have a key box (Knox brand) located outside of buildings/gates and provide keys to the Fire Department so they may gain access. Vehicle gates shall use Knox lock or keyed over-ride switch. Gates shall also have an infrared receiver installed. Key box applications can be obtained at the Fire Administration office located at 3300 Capitol Avenue, Fremont, 94538, phone #510-494-4200.
11. The building address shall be plainly legible and visible from the public street. Address numbers shall contrast with their background.

12. A Fire Department access roadway serving structures 30 feet or less in height shall have a minimum 20 foot unobstructed linear width. When required, the access roads shall be designated as Fire Lanes. The applicant will provide red curbs with lettering every 30 feet and fire lane signs every 100 feet.
13. Driveways/access road shall meet Fire Department standards for surface type, distance, weight loads, turn radius, grades, and vertical clearance. Approved turnarounds shall be required for distances over 150 feet from public streets. Other mitigations may be required in addition to those listed.
14. The applicant shall provide a 20-foot wide all weather-paving surface (paving) for emergency vehicle access within 150 feet of all construction or combustible storage. This access shall be provided before any construction or combustible storage will be allowed.
15. The applicant shall comply with the provisions of the permits required from any state or regional agencies, including, but not limited to, the Bay Area Air Quality Management District (BAAQMD), Regional Water Quality Control Board (RWQCB), Union Sanitary District's (USD) POTW and the Alameda County Department of Environmental Health.
16. The portion of the facility to be converted to another use shall be free of any reported hazardous materials and properly closed with the local agencies, as required by California Health and Safety Code, Chapter 6.95, and as detailed in the Hazardous Materials Business Plan filed with the City of Fremont Fire Department.
17. The applicant must immediately notify the Fremont Fire Department, Hazardous Materials Unit of any underground pipes, tanks or structures; any suspected or actual contaminated soils; or other environmental anomalies encountered during site development activities. Any confirmed environmental liabilities will need to be remedied prior to proceeding with site development.
18. This zoning administrator permit shall be subject to revocation by the Zoning Administrator at such time as any of the following are found to exist:
 - a. Conditions of approval, including state or local standards of operation, have not been fulfilled;
 - b. The use has resulted in a substantial adverse effect on the health and/or general welfare of users of adjacent or proximate property;
 - c. The use has resulted in a substantial adverse impact on public facilities or services.

END OF CONDITIONS

**This Page Left
Blank Intentionally**



ZONING ADMINISTRATOR PERMIT

STAFF REPORT MARCH 02, 2009

Project: **FIRST STEPS DAYCARE – (MIS2009-00369)**

Proposal: To consider a Zoning Administrator Permit for a large family daycare to allow up to fourteen children.

Recommendation: Approve, based on findings and subject to conditions.

Location: 1963 Oro Drive in the Mission San Jose planning area.
APN 525- 0151-026-00
(See aerial photo next page)

Area: 6,510 square foot existing lot.

People: Mary Pantaleon, Applicant
Tanu Jagtap, Staff Planner (510) 494-4452; tjagtap@fremont.gov

Environmental Review: This project is exempt from the California Environmental Quality Act under guideline 15274, Family Daycare Homes.

General Plan: Low Density Residential

Zoning: R-1-8, Single-Family Residence District

EXECUTIVE SUMMARY:

The applicant is requesting a Zoning Administrator Permit for a Large Family Daycare to allow the supervision of up to 14 children. The applicant proposes to operate the daycare Monday through Friday from 7:00 a.m. until 6:00 p.m.



Figure 1: Aerial Photo (2006) of Project Site and Surrounding Area.



SURROUNDING LAND USES: North: Residential; South: Residential
 East: Residential; West: Residential

BACKGROUND AND PREVIOUS ACTIONS:

The project site is an existing single family residence within an established neighborhood. The applicant currently has a State licensed small family daycare, which allows the supervision of up to 8 children.

PROJECT DESCRIPTION:

The applicant is requesting approval for a Zoning Administrator Permit for a Large Family Day Care facility for up to 14 children. The proposed hours of operation are 7:00 A.M. to 6:00 P.M. Monday through Friday.

PROJECT ANALYSIS:

State of California Health and Safety Code Conformance: The proposed project is consistent with the State of California Health and Safety Code because the State policy recognizes the need for family daycare facilities to be provided in residential districts and has preempted local regulation by limiting City authority to regulate Large Family Day Care facilities in residential districts.

- **California Health and Safety Code Section 1597.40(a):** It is the intent of the Legislature that family day care homes for children should be situated in normal residential surroundings so as to give children the home environment, which is conducive to healthy and safe development. It is the public policy of this state to provide children in a family day care home the same home environment as provided in a traditional home setting.

The Legislature declares this policy to be of statewide concern with the purpose of occupying the field to the exclusion of municipal zoning, building and fire codes and regulations governing the use or occupancy of family day care homes for children, except as specifically provided for in this chapter, and to prohibit any restrictions relating to the use of single-family residences for family day care homes for children except as provided by this chapter.

California Health and Safety Code Section 1597.46 allows a city limited authority to regulate Large Family Day Care within homes on lots zoned for single-family dwellings. A city has three proposed regulatory routes:

1. Classify Large Family Day Care as a permitted use;
2. Grant a non-discretionary permit for Large Family Day Care which meets reasonable standards related to spacing, concentration, traffic, parking and noise; or
3. Require a proposed Large Family Day Care to obtain a permit to use a lot zoned for single-family dwellings. The use permit must be granted if the use meets the reasonable standards related to spacing, concentration, traffic, parking and noise.

City of Fremont has selected regulatory route (3) for Large Family Day Care. The Large Family Day Care must obtain a Zoning Administrator Permit and meet the standards set forth in Fremont Municipal Code Section 8-22147.5.

General Plan Conformance:

The existing General Plan Land Use designation for the project site is Low Density Residential (5 to 7 dwelling units per acre). The proposed project is consistent with the existing General Plan Land Use designation for the project site because the General Plan allows Large Family Day Care facilities within the Residential Land Use designation. The General Plan recognizes in the Land Use Chapter under Day Care (Private Sector, Non-Municipal – p.3-84) that “the labor participation rates show a growing number of dual working parents and single parents. This indicates a need for care and supervision of children outside the home and outside regular school hours.” The following General Plan Goals, Objectives, and Policies are applicable to the proposed project:

- **Land Use Policy LU 1.1, Allowed Uses and Densities:** Schools, Childcare Centers, Public and Semi Public Facilities (e.g., churches) and Nursing Care facilities. These uses may be allowed, although conditions may be established to limit the impacts of these uses on residents.
- **Land Use Goal LU 8:** Provision and enhancement of day care services through a partnership of all sectors of the community.
 - **Land Use Policy LU 8.1:** To accommodate day care needs of children, frail elderly and developmentally disabled adults, services shall be allowed in any commercial, industrial or residentially designated area, subject to conditions regarding size of facility, access, parking and the availability of outdoor space.
 - **Land Use Policy LU 8.2:** Care facilities should be located to minimize exposure to noise, localized air pollutions sources and other environmental hazards.
- **Health & Safety Policy HS 8.1.2:** Protect the noise environment in existing residential areas.

Zoning Regulations:

The project site has a zoning designation of R-1-8, Single Family Residence District. The Large Family Day Care facility use is a permitted use with a Zoning Administrator Permit within the R-1-8 district. Large Family Day Care facilities are required to obtain a license from the California Department of Social Service, Community Care Licensing Division for Family Child Care Homes. The applicant has filed an application with the Community Care Licensing Division. Additionally, the use, as proposed and conforming to the recommended conditions of approval (Exhibit “A” Findings and Conditions of Approval), would be in compliance with Ordinance No. 2045, Large Family Day Care Homes, adopted by the City Council on September 21, 1993 (Fremont Municipal Code Section 8-22147.5.)

Section 8-22147.5 of the Fremont Municipal Code provides standards for a Large Family Day Care facility, which, in part, authorizes the Zoning Administrator and/or Planning Commission to impose operational conditions on its use. The permit allows for, and ensures that, the proposed use is

compatible with its surrounding and location. Operational conditions are imposed to offset potential impacts caused by the facility to adjacent neighboring properties, such as impacts associated with parking, traffic, noise and outdoor play areas.

Generally, the main concerns of adjacent property owners are that of noise, traffic, parking and the safety of children in care. Conditions are therefore included to ensure that the facility will operate in a manner compatible with the neighborhood. Further, should the Zoning Administrator find at anytime that conditions have not been fulfilled or the use has caused an adverse impact on adjacent neighboring properties, the applicant may be required to implement additional mitigation measures.

Parking:

Section 8-22147.5 of the Fremont Municipal Code requires a minimum of two parking spaces available to serve the customers during the facility's hours of operation. The parking spaces will be required to be located in a manner to be readily and safely utilized by the customers. (Conditions 8 & 9) In addition, the applicant is requesting the customers to agree to a 10-minute curb time for drop-off and pick-up, to parking only in the subject site's driveway or on the curb next to the subject site so as not to restrict the flow of traffic for the neighbors.

PUBLIC NOTICE AND COMMENT:

Public hearing notification is applicable. A total of 14 notices were mailed to owners and occupants of property within 100 feet of the site. The notices to owners and occupants were mailed on February 18th. A Public Hearing Notice was published by *Tri-city Voice* on February 18th.

On December 1, 2008, staff received a request to hold a Public Hearing for the proposed project. (Informational Item 1.)

On November 23, 2008, staff received e-mail from residents living at 2004 Oro Drive; (Informational Item 2). November 29, 2008 staff received e-mail from residents living at 1941 Oro Drive; (Informational Item 3). November 30, 2008 e-mail from residents living at 1991 Oro Drive (Informational Item 4). December 1, 2008 staff received e-mails from residents living at 1938 Oro Drive (Informational Item 5); and 2009 Oro Drive (Informational Item 6.); and phone call from residents at 1938 Oro Drive.

ENCLOSURES:

Exhibits:

Exhibit "A" Findings and Conditions of Approval

Informational Items:

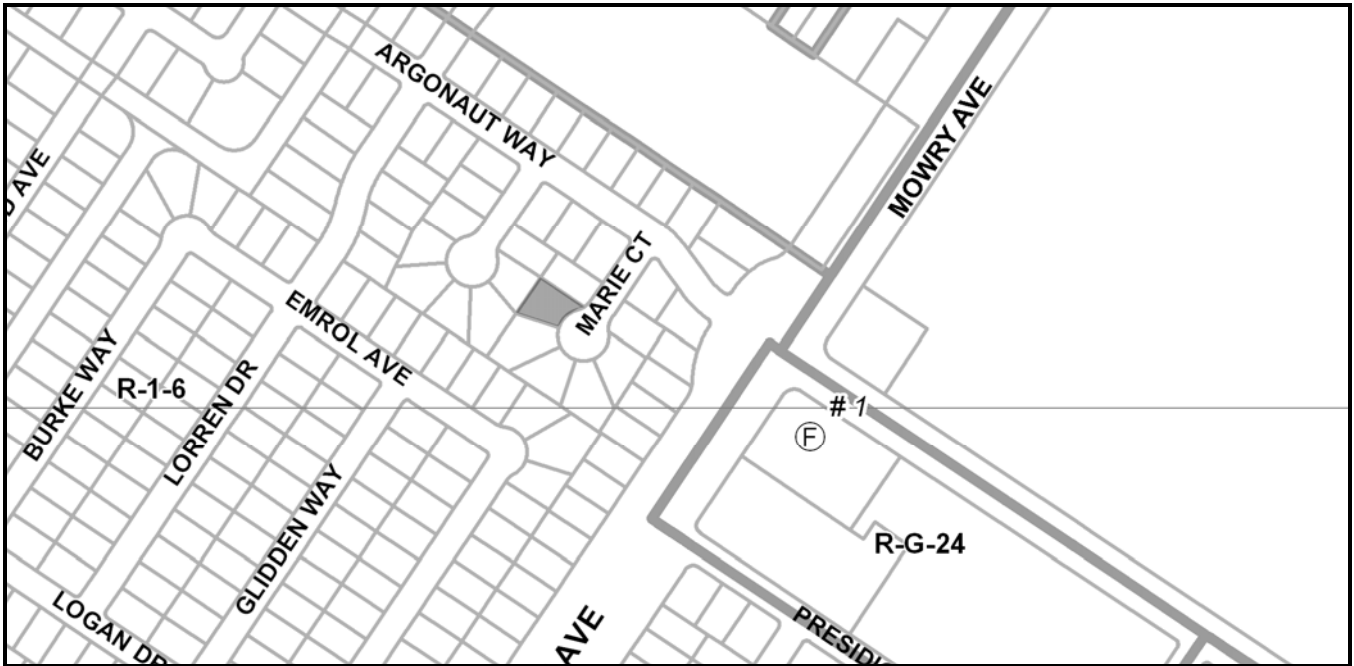
1. First Steps Daycare Application
2. Correspondence from Robert Portillo
3. Correspondence from Robert & Rosa Marie Portillo

4. Correspondence from Ching –Sheng Hwang
5. Correspondence from Luo Larry & Joyce Teng
6. Correspondence from Alan Classen
7. Correspondence from Boban John

RECOMMENDATION:

1. Hold public hearing.
2. Find that the project is exempt from the California Environmental Quality Act (CEQA) under guideline 15274.
3. Find First steps Daycare is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals, objectives and policies set forth in the General Plan's Residential Land Use Policies Chapter as enumerated within the staff report.
4. Approve First Steps Daycare (MIS2009-00369), subject to findings and conditions in Exhibit "A".

Existing Zoning
Shaded Area represents the Project Site



Existing General Plan

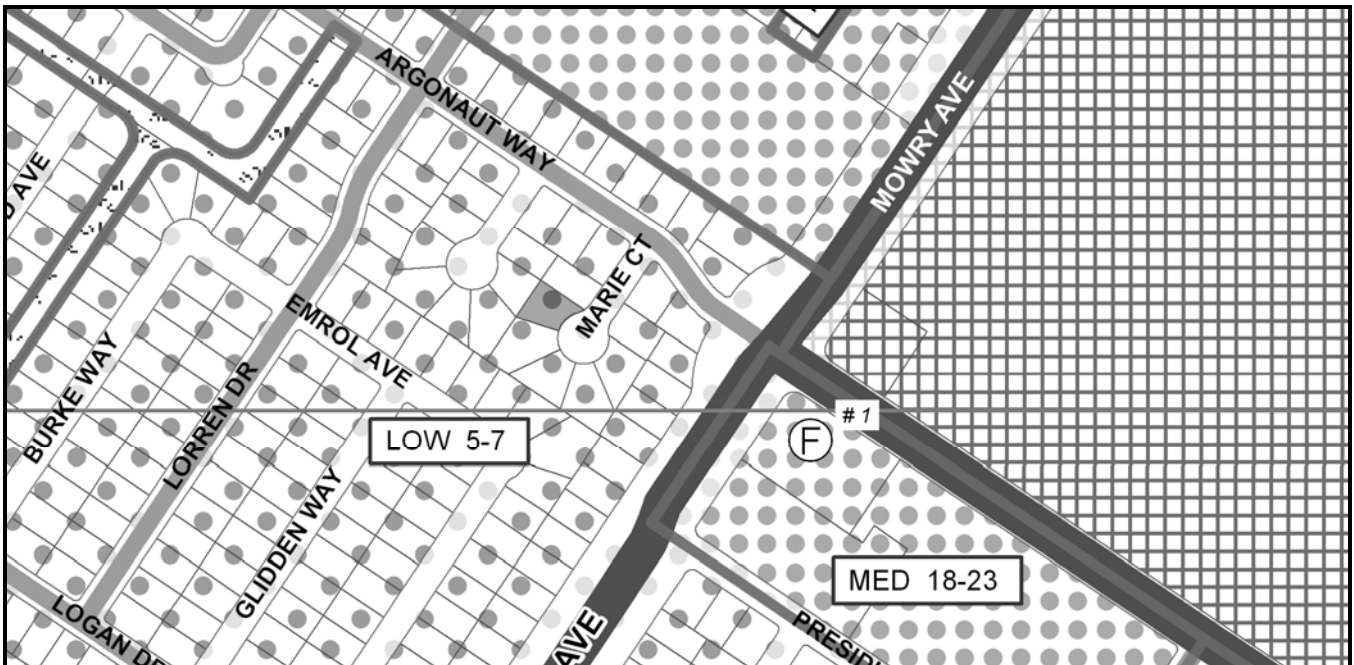


EXHIBIT "A"
Findings and Conditions of Approval
For MIS2009-00369, First Steps Daycare

FINDINGS:

The findings below are made on the basis of information presented at the public hearing and contained in the staff report to the Zoning Administrator dated March 03, 2008, incorporated hereby.

- a. The project is statutorily exempt from the California Environmental Quality Act because it is for the permitting of a Family Day Care Home as defined in Section 15274 of the CEQA Guidelines.
- b. The site is suitable and adequate for the proposed use because, as the code requires, there are no other large family day care facilities within a 300-foot radius of the applicant's property. In addition, conditions of approval are incorporated to ensure that the use will not cause an adverse impact on its surroundings.
- c. The proposed use would not have a substantial adverse effect on traffic circulation and on the planned capacity of the street system or other public facilities or services because the large family daycare is being limited to the statewide limit of fourteen children. Two driveway spaces will be left open and available for the periodic drop-off and pick-up of children. Additionally, if a substantial adverse effect on traffic circulation is found to exist, the use may be reviewed and the Zoning Administrator may require implementation of a staggered drop-off and pick-up program for children.
- d. The proposed use would not have a substantial adverse economic effect on nearby uses because the Fremont Municipal Code and State law have provided for, and this site meets, the proper spacing of in-house facilities providing child care services to the community from established residence.
- e. The proposed use would not have a substantial adverse impact on the general welfare of persons residing in the community because day care operations, including temporary parking, will take place on private property, associated noise will be limited to an average L_{dn} of 60 decibels at the property line in accordance with the City of Fremont General Plan Health and Safety Element, and children will be supervised by an adult or adults in conformance with state law at all times.
- f. The use is consistent with the General Plan in that Land Use Policy LU 1.1 permits childcare facilities within residential districts, and the use conforms to all applicable standards set forth in the Municipal Code.

CONDITIONS OF APPROVAL:

1. Compliance with all applicable provisions of the Fremont Municipal Code and State of California and federal law.
2. Conformance with all specific requirements of Section 8-22147.5 of the Fremont Municipal Code, except as they may become inconsistent with State law pursuant to Section 1597.40 of the California Health and Safety Code.

3. The operator(s) of the facility must reside at the property.
4. The hours of operation will be generally limited to the hours of 7:00 a.m. to 6:00 p.m. Monday to Friday.
5. The number of children onsite, including those of the resident operator, shall not exceed fourteen at any time. Numbers and ages of children onsite at any given time shall be limited to those allowed by state law.
6. Adult supervision of the children at the facility shall be provided in accordance with California Law at all times during the hours of operation.
7. Noise levels caused by the operation of the facility shall not exceed 60 decibels at the property lines.
8. Use and location of play areas shall not cause any excessive discomfort for adjacent residents or property owners on the use of their property. Play areas shall not be located in the front yard of the home.
9. There shall be a minimum of two parking spaces available onsite for pick-up and drop-off during the facility's hours of operation. The operator shall be required to advise all customers in writing of the two designated spaces on the driveway serving as parking for dropping off and picking up children attending the facility. A copy of this letter shall be submitted to the Planning Division before the inspection conducted by the Fire Marshal.
10. The garage/carport shall be utilized for the parking of the residents' vehicles, and its use for any function of the facility's day care function is prohibited.
11. Any pets that may cause harm to the children must be restrained and placed in areas that are inaccessible to the children.
12. Solid fencing a minimum of six feet tall shall be required to enclose the rear and side yards of the property to prevent uninhibited access to the street or other properties.
13. The operator shall complete and file a Business Tax License for the Large Family Day Care operation with the City before the inspection is conducted by the Fire Marshal.
14. Clearance from the City of Fremont Fire Department for compliance with all regulations of the State of California Fire Marshal shall be required before the operation of the day care facility commences.
15. The Zoning Administrator must be notified, in writing, if any new additions to the facility and/or new accessory structures (such as a recreation room) are used as part of the day care operation.
16. The applicant acknowledges and agrees that, although the facility may be validly licensed by the State, failure to comply with local zoning regulations may subject the operator to citations issued by the City of Fremont.